

REMARKS

In this preliminary amendment, new claims 50-68 have been added. No new matter has been added.

Claims 1-49

35 U.S.C. § 101:

Applicants gratefully acknowledge the Examiner's withdrawal of this ground of rejection of the claims in the Advisory Action mailed August 22, 2006.

35 U.S.C. §§ 102/103:

Applicants maintain that claims 1-49 are patentable over the applied Lash reference for the reasons set forth in the Request for Reconsideration filed on July 27, 2006. Specifically, claim 1-49 require the calculation of a burden of illness score and a utilization score for each member in a health plan. This is distinct from the Lash system, in which risk scores are calculated only for a subset of patients having a selected condition or diagnosis. While the Examiner asserts that limiting the calculation to members having claim data within the base period of time constitutes filtering of the health plan members, Lash also analyzes data within a defined period of time (see, e.g., Lash ¶ 10). Lash *also* includes an additional distinct filtering process that necessarily creates a subset of patients all having a specific condition or diagnosis prior to calculating a risk score for that homogeneous subset of patients. This results in a limited analysis of risk for only the homogeneous subset of patients, not a utilization score for the entire set of members in a health plan wherein each member's score is calculated regardless of specific condition or diagnosis as provided in claims 1-49. Consequently, claims 1-49 are believed to be patentable over Lash.

New Claims 50-68

New independent claim 50 recites, *inter alia*, calculating a burden of illness score for *each member in the health plan* by identifying predefined data items within the claim data, wherein the predefined data items correspond to a *plurality of health conditions* and have an

associated burden weight. The burden of illness score for each member in the health plan is calculated by summing the predefined data items identified for each member as weighted using the associated burden weight. The burden of illness score for each member is then used to calculate a utilization score *for each member in the health plan*.

In contrast, Lash teaches the use of a predictive behavioral model created exclusively for homogenous patient populations, that is, a behavioral model for patient populations having similar diseases or diagnosed conditions. See page 4, paragraph 37, lines 25-34. The behavioral model in Lash is a formula consisting of weighted coefficients and variables used to predict the future cost of medical services for a single patient. See page 4, paragraph 38. Depending on the specific disease or diagnosed condition of the homogenous patient population, a predetermined selection of these variables and coefficients, consisting of less than the entire set of variables and coefficients, are used in the model. Page 4, paragraph 38, lines 5-15 (“Those variables or combinations of variables that are above a selected minimum ability to predict whether the patient will be a high user of medical services are selected . . . The result is a model . . . in the form of a probability equation which includes the high relevance variables multiplied by their . . . weighting coefficients[.]”). Therefore, before application of the predictive model, and thus before the determination of high-cost patients, the patient populations operated on using the method described in Lash must first be filtered by disease or diagnosed condition in order to determine the appropriate variables and coefficients. Lash explicitly teaches away from applying its behavioral model to any group of patients that is not homogenous because, according to Lash, suitable variables and coefficients are determined based on the factor that makes a group of patients homogenous (e.g., the specific disease or diagnosed condition inflicting the homogenous population). Page 4, paragraph 37, lines 23-32 (“It is very difficult to create accurate models with diverse populations of patients because they have very different motivations that control their behavior . . . Therefore, if the population is not otherwise homogenous, it is filtered, for example on the basis of the disease or diagnosed condition . . .”).

For these reasons, Lash does not teach or suggest the features recited in new claim 50. Therefore, new claim 50 is believed to be patentable over Lash.

New claims 51-68 depend from claim 50 and are believed to be patentable over the art of record for at least those reasons set forth above with respect to claim 50.

Conclusion

This application now stands in allowable form and reconsideration and allowance are respectfully requested.

Respectfully submitted,

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